THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21110 of 2006

Dated: 20-11-2006

Between:

M. Jagapathi Rao.

..... PETITIONER

AND

The Mandal Revenue Officer, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.21110 of 2006

ORDER:

The petitioner purchased land admeasuring 726 sq. yards under registered sale deed dated 27-04-1993 in survey No.102/1, Ward No.12 Block-A situated at Shaikpet Mandal of Hyderabad District and was also allegedly put in possession of the land admeasuring 2336 sq. meters from the landowner, who had filed a declaration under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976. The Government filed L.G.C.No.45 of 1991 before the Special Court against the petitioner and others. However, the name of the petitioner was deleted from the array of parties subsequently. It appears that the Jubilee Hills Cooperative House Building Society and another filed a suit against the petitioner alleging that the petitioner grabbed 1672 sq. yards in survey No.102. The suit, being O.S.No.2231 of 1993, was dismissed on 07-10-1994 by the Court of VII Assistant Judge, City Civil Court, Hyderabad. It is also the case of the petitioner that after issuance of G.O.Ms.No.455 dated

29-07-2002, he made an application for regularization of 1128 sq. meters to the Government and the same was being processed by the Special Officer. On 22-07-2005, respondent No.1 came along with staff and partly demolished the boundary wall highhandedly alleging that it is a Government land. The petitioner, therefore, approached this Court seeking appropriate Mandamus after issuing a legal notice through his counsel. At the stage of admission itself, respondent No.1 has filed a detailed counter-affidavit. The allegation of the petitioner that he is owner of the land or that he is in possession of the land is denied. Adverting to the specific allegation made by the petitioner in para 20 of his affidavit that respondent No.1 tried to demolish and also partly demolished the wall, in para 24 of the counter-affidavit, it is stated as under.

> In reply to the averments made Paras 20 to 23 of the affidavit, I submit that the allegations made therein by the Petitioner that the Respondent No.1 with his staff visited his premises on 21-07-2006 in his absence and wanted to demolish the structures on the ground on the plea that it belonged to the State Government and as he was not available in the city, and as his son requested for a days time to produce documents to show that it was not State Government land, the Respondent No.1 left the site calling upon his son to produce documentary evidence by next day i.e., 22-07-2006, but unfortunately before the expiry of the 24 hours on the AN of 21-07-2006 visited the site and partly demolished the boundary wall high handedly causing not only loss to the property but also loss to the reputation to the Petitioner as well, that as the subject property

was bore-open, he made temporary fencing to avoid intrusion, that the Respondent No.2 did not issue any notice nor called for an explanation before resorting to demolition nor he examined the documents that were in his possession, that his son went to the office of the Respondent No.1 and enquired et., are all false, fictitious, misconceived, untenable and baseless hence denied. The Petitioner is put to strict proof of the same.

The petitioner has filed a reply-affidavit denying the various counter averments.

The learned counsel for the petitioner, after taking this Court through various documents in support of the claim of the petitioner, submits that the petitioner is in possession of the land since 1986 and raised a compound wall and that without due process of law, respondent No.1 cannot resort to high handed action. The learned Assistant Government Pleader for Revenue (Assignment) opposed this relying on the averments in the counter-affidavit extracted hereinabove.

In view of the denial by respondent No.1 regarding allegation that there was highhanded demolition, this Court is not able to accept the writ petition for further enquiry. However, it should be observed that having regard to L.G.C.No.45 of 1991 filed by the Government against the petitioner and others and the suit, being O.S.No.2231 of 1993, on the file of the Court of VII Assistant Judge, City Civil Court, Hyderabad, and various other proceedings, respondent No.1 should take necessary action. If for any reason there is proposal to evict the petitioner from the land, which is allegedly in his possession, this observation would safeguard his interests.

With the above observation, the writ petition is disposed of. No costs.

V.V.S.RAO, J

20th November, 2006
ghn